



STATE OF DELAWARE  
**DEPARTMENT OF TECHNOLOGY AND INFORMATION**  
 801 Silver Lake Blvd.  
 Dover, Delaware 19904

<b>Doc Ref Number:</b>	DTI-0053.03	<b>Revision Number:</b>	3
<b>Document Type:</b>	Internal Policy	<b>Page:</b>	1 of 13
<b>Policy Title:</b>	Request For DTI Public Records (FOIA)		

<b>Synopsis:</b>	To establish guidelines governing the providing of public records as a result of FOIA requests.		
<b>Authority:</b>	Delaware Title 29, Chapter 90C, § 9002C. Establishment of the Department of Technology and Information.  A Department of Technology and Information is established, and shall have, in addition to the other powers, duties and functions vested in the Department by this chapter and where consistent with express provisions of this chapter, the power and duty to perform all the powers, duties and functions heretofore vested in the Office of Information Services by §§ 6352, 6353, 6354, 6357, 6358 and 6360 of this title. (73 Del. Laws, c. 86, § 1.)		
<b>Applicability:</b>	All users of the State of Delaware communications and computing resources. DTI is an Executive Branch Agency and has no authority over the customers in Legislative and Judicial Branches, as well as School Districts, and other Federal and Local Government entities that use these resources. However, all users, including these entities, must agree to abide by all policies, standards promulgated by DTI as a condition of access and continued use of these resources.		
<b>Effective Date:</b>	August 31, 2006	<b>Expiration Date:</b>	None
<b>POC for Changes:</b>	Chief Operating Officer		
<b>Approval By:</b>	Cabinet Secretary - State Chief Information Officer		
<b>Approved On:</b>	August 31, 2006		





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### I. Policy

It is the public policy of this State and the Department of Technology and Information (DTI) that all citizens are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with the Freedom of Information Act (FOIA). The Freedom of Information Act (the "Act") as found in Title 29, Delaware Code, and Chapter 100 establishes the right of the public to inspect and copy public records.

#### REASON FOR POLICY:

The Department of Technology and Information (DTI) has an obligation under 29 Del. Code §10003 to produce these public records for inspection and copying at the location designated by the DTI FOIA Coordinator and to "establish rules and regulations regarding access to DTI's public records, as well as, fees charged for copying/accessing of such records."

#### Process Flow Responsibilities:

Step	Responsibility	Action
1.	Requestor	A person desiring to inspect or receive a copy of a DTI public record must make a written request for the public record. The request must describe the record sufficiently to enable the DTI FOIA Coordinator to find the public record. A written request may be made by hand delivery, US Mail, facsimile, electronic mail, or other electronic transmission.



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### Process Flow Responsibilities cont'd.:

2.	All DTI Employees	A request for a public record received at any worksite shall be immediately delivered to the DTI FOIA Coordinator.
3.	DTI FOIA Coordinator	The DTI FOIA Coordinator will review the request and determine if the request is for DTI public records or for public records that belong to another agency or organization. (see DTI Policy on FOIA Requests For Data Records) In this case the request will be denied and the "Requestor" will be notified of the new contact information. The FOIA Coordinator must issue a written notice in response to a FOIA request within five (5) business days after receiving the request. The written notice issued in response may extend for not more than ten (10) business days the period during which the FOIA Coordinator shall issue a second written notice that grants the request, or denies the request in full or in part, with an explanation for the denial, and of the person's remedial rights under the FOIA. The notice extending the period for a response to the request shall specify the reasons for the extension, and the date by which the FOIA Coordinator will issue the second written notice.
4.	DTI Supervisors	To ensure that we respond in a timely manner, the work unit supervisor immediately shall provide the FOIA Coordinator all original records, or copies as directed by the FOIA Coordinator, contained in local files.





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5.	DTI FOIA Coordinator	<p>The FOIA Coordinator is responsible for determining whether a FOIA request is denied in full or in part, and shall sign the written notice of denial. By way of example, and not limitation, the FOIA Coordinator might deny a request for the disclosure of information of a personal nature, where the public disclosure would constitute a clearly unwarranted invasion of an individual's privacy. FOIA Code reference, Section 2(d)(5)(b) appropriately excludes information that would compromise building security, information about DTI's network and computing infrastructure.</p> <p>Work units may give their recommendation for full or partial disclosure denial of any public record. The final authority, however, rests with the FOIA Coordinator or with the CIO upon appeal.</p> <p>Pursuant to the Delaware Code, the DTI FOIA Coordinator shall determine the fees for search, examination, review, and the deletion and separation of exempt from nonexempt information; and the costs of copying and mailing.</p> <p>Where a requesting person elects to inspect public records, the FOIA Coordinator and worksite supervisor shall determine what constitutes a reasonable opportunity for inspection and examination of existing, nonexempt public records, and shall furnish reasonable facilities for inspection during usual business hours. DTI employees shall protect public records from loss, unauthorized alteration, mutilation, or destruction. Where original public records are involved in the inspection, the lowest paid employee of the work unit shall supervise the inspection of the original public records.</p>
6.	DTI Work Unit Supervisors	<p>DTI Work Unit Supervisors are advised that records in DTI files from other agencies, public or private, generally constitute public records of DTI subject to the FOIA. In order to assist the FOIA Coordinator in determining whether the records might be subject to confidentiality under federal or state law, or under another basis for exemption from public disclosure, work units shall segregate or otherwise identify records that originated from another agency. Likewise, DTI records possessed by other public agencies might be subject to disclosure pursuant to FOIA requests made to those agencies.</p>





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7.	Requestor	If the FOIA Coordinator makes a final determination to deny all or a portion of a request, the requesting person has the option to submit a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial; or, within 180 days after the FOIA Coordinator's final determination to deny a request, commence an action in the circuit court to compel the public body's disclosure of the public records.
8.	Chief Information Officer	It is the responsibility of the DTI CIO or the CIO's designee, to respond to written appeals of the FOIA Coordinator's determinations to deny requests for disclosure under the FOIA. Within ten (10) business days after receiving a written appeal, the DTI CIO must do one of the following: a. Reverse the disclosure denial. b. Issue a written notice to the requesting person upholding the disclosure denial. c. Reverse the disclosure denial in part, and issue a written notice upholding the disclosure denial in part. d. Under unusual circumstances, issue a notice extending for not more than ten (10) business days the period during which a written notice shall issue under subsections a, b, or c.

**Procedures:**

1. Only a Delaware citizen or a firm that is incorporated in Delaware has the right to review Delaware public records.
2. The request must be made in writing and must provide a "reasonable description" of the information being sought. DTI and the requestors may work together to clarify and define the scope of the request.
3. All FOIA requests should be sent to:

State of Delaware  
 Department of Technology and Information  
 Executive Secretary to the Chief Information Officer  
 801 Silver Lake Blvd.  
 Dover, DE 19904

Write "Freedom of Information Act Request" on the envelope.

4. FOIA requestors must declare a willingness to pay applicable fees. Processing of the request cannot begin until fees have been addressed. Requestors may set a limit on the amount that they are willing to pay. If it is anticipated that fees will exceed the



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fee limit set by the requestor, or if in processing the request, fees begin to exceed the requestor's fee limit, the Department will contact the requestor. If the requestor has provided a telephone number, the Department will attempt to call the requestor to resolve the matter quickly. Fees are generally assessed by DTI at the beginning of processing a request.

After DTI reviews a FOIA request, the CIO or their designee will assign personnel to determine if the request applies to 29 Del. C. Ch. 100. If the request does not comply, the requestor is notified in writing (see Appendix A). If the request meets the requirements as outlined in 29 Del. C. Ch. 100, the scope of services and cost to provide the information will be determined. The requestor will be advised of the cost to fulfill the request and be given the option to pay the applicable fees (see Appendix B). Upon receipt of payment the information will be gathered. DTI may solicit help from the DTI Audit Control Specialist and/or DTI's Deputy Attorney General (DAG), if necessary. Then the requestor will be invited in writing to view the information or be sent copies of the information (see Appendix C).

Fee Schedule: DTI's preparation fees are assessed at the rates currently in effect at the time of the request.

Paper copy costs are assessed at the rate of \$0.25 per page.

Other media such as CD-Rom or Computer Tape will be assessed at actual cost.

5. Cost of the request and any deposit must be paid by check or money order, payable to: The Department of Technology and Information, before information is provided.
6. Correspondence samples and the Invoice form are attached.

## II. Definitions

- "Public record" is defined by the FOIA as "a writing prepared, owned, used, in the possession of, or retained by a public body in the performance of an official function, from the time it is created. Public record does not include computer software." The FOIA separates public records into two classes: Those that are exempt from public disclosure under section 13(1) of the act; and those that are not exempt from public disclosure under section 13(1), and are subject to disclosure under the act.

- "Writing" is defined by the FOIA as "handwriting, typewriting, printing, photo stating, photographing, photocopying, and every other means of recording, and includes letters, words, pictures, sounds, or symbols, or combinations thereof, and papers, maps, magnetic or paper tapes, photographic films or prints, microfilm, microfiche, magnetic or punched cards, discs, drums, or other means of recording or retaining meaningful content." DTI regards email to be a means of recording or retaining meaningful content.



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•“Written request” is defined by the FOIA as “a writing that asks for information, and includes a writing transmitted by facsimile, electronic mail, or other electronic means.”

•“FOIA Coordinator” is defined by the FOIA as an individual designated by a public body to accept and process requests for public records under the act. DTI has designated the Executive Secretary of the Chief Information Officer as the DTI FOIA Coordinator. The DTI FOIA Coordinator may appoint Assistant FOIA Coordinators to accept and process FOIA requests.

### III. Development and Revision History

Initial version established June 21, 2004.

Reformatted January 21, 2005.

Reformatted August 31, 2006.

Appendix D added May 9, 2008.

### IV. Approval Signature Block

Thomas M. Jarrett	
<b>Name &amp; Title:</b> Cabinet Secretary - State Chief Information Officer	<b>Date</b> August 31, 2006

### V. Listing of Appendices

Appendix A, FOIA Request Rejection letter.

Appendix B, Payment Request letter.

Appendix C, Appointment/Transmittal letter.

Appendix D, FOIA Email Policy For Executive Branch Agencies



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Appendix A



State of Delaware  
DEPARTMENT OF TECHNOLOGY AND INFORMATION  
William Penn Building  
801 Silver Lake Boulevard  
Dover, Delaware 19904

INSERT DATE

INSERT NAME AND ADDRESS

RE: Freedom of Information Act Request

Dear INSERT NAME (Mr. Smith):

You have requested information relating to INSERT DESCRIPTION, pursuant to the Delaware Freedom of Information Act, 29 Del. C. Ch. 100. The Department of Technology and Information (DTI) under 29 Del. Code §10003 1) must determine that the information be eligible for public release per the Del. Code; 2) has the obligation to provide information only to citizens of the State and 3) must produce these records for inspection and copying at the Department's location at 801 Silver Lake Blvd., Dover, DE 19904.

It has been determined that your request does not meet the requirements of the statute and is rejected.

INSERT REASON HERE

If you have any questions, please contact me.

Sincerely,

INSERT NAME

Executive Secretary to the Chief Information Officer  
Department of Technology and Information



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Appendix B cont'd.



State of Delaware  
**DEPARTMENT OF TECHNOLOGY AND INFORMATION**  
William Penn Building  
801 Silver Lake Boulevard  
Dover, Delaware 19904

INSERT DATE

INSERT NAME AND ADDRESS

RE: Freedom of Information Act Request

Dear INSERT NAME (Mr. Smith):

You have requested information relating to INSERT DESCRIPTION, pursuant to the Delaware Freedom of Information Act, 29 Del. C. Ch. 100. The Department of Technology and Information (DTI) under 29 Del. Code §10003 1) must determine that the information be eligible for public release per the Del. Code; 2) has the obligation to provide information only to citizens of the State and 3) must produce these records for inspection and copying at the Department's location at 801 Silver Lake Blvd., Dover, DE 19904.

- 1) It is estimated that your FOIA request will cost \$\_\_\_\_\_ for providing the information to view only.
- 2) If you prefer to obtain copies/electronic files then the estimated cost will be \$\_\_\_\_\_.

If actual costs exceed the estimates, the requestor will be contacted and informed of the actual fees.

Please indicate below your choice and agreement to pay the required fees and sign where indicated.

Please include your payment (check or money order payable to: The Department of Technology and Information) with this letter and return to: State of Delaware; Department of Technology and Information; Executive Secretary to the Chief Information Officer; 801 Silver Lake Blvd.; Dover, DE 19904

Thank you for your courtesy and cooperation in this regard.

Sincerely,

INSERT NAME

Executive Secretary to the Chief Information Officer  
Department of Technology and Information



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CHECK ONE:

Option 1) \_\_\_\_\_

Option 2) \_\_\_\_\_

Agreed:

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_  
(Printed)

Company: \_\_\_\_\_ (if applicable)

Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Daytime Phone: \_\_\_\_\_

Email: \_\_\_\_\_ Date: \_\_\_\_\_



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Appendix C



State of Delaware  
**DEPARTMENT OF TECHNOLOGY AND INFORMATION**  
William Penn Building  
801 Silver Lake Boulevard  
Dover, Delaware 19904

INSERT DATE

INSERT NAME AND ADDRESS

RE: Freedom of Information Act Request

Dear INSERT NAME (Mr. Smith):

You have requested information relating to INSERT DESCRIPTION, pursuant to the Delaware Freedom of Information Act, 29 Del. C. Ch. 100. The Department of Technology and Information (DTI) under 29 Del. Code §10003 1) must determine that the information be eligible for public release per the Del. Code; 2) has the obligation to provide information only to citizens of the State and 3) must produce these records for inspection and copying at the Department's location at 801 Silver Lake Blvd., Dover, DE 19904.

Your payment has been received. Thank you.

Check one:

\_\_\_\_\_ Please call INSERT NAME AND PHONE NUMBER to make arrangements to come in and view the information.

\_\_\_\_\_ Enclosed is the information that you have requested.

If you have any questions, please contact me.

Sincerely,

INSERT NAME

Executive Secretary to the Chief Information Officer  
Department of Technology and Information



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#### Appendix D

### STATE OF DELAWARE FREEDOM OF INFORMATION ACT EMAIL POLICY FOR EXECUTIVE BRANCH AGENCIES

1. All Freedom of Information Act ("FOIA") requests for email records must be in writing. The request may be made either through a written letter or email. Every agency must designate a FOIA officer or custodian of records to whom all FOIA requests should be directed immediately on receipt.
2. Any request for email records that cannot easily be produced by an agency shall be sent to the Department of Technology and Information ("DTI"). DTI in turn will provide the email records requested to the agency if available. The determination as to what records are appropriate for disclosure remains with the agency, not DTI.
3. Agencies are to coordinate with the Office of Management and Budget's designated FOIA officer prior to the release of email records that contain personnel or employment-related information.
4. Every agency shall have rules, regulations or a written policy establishing reasonable fees for costs associated with the production of email records. The fees may include the cost to print, copy, and review documents. Additionally, if the services of DTI are used to produce documents all costs, including programming and retrieval costs, shall be charged to the person requesting such information. The agency will make a good faith estimate of costs and notify the person requesting the information of the estimated charges before performing the search. Agencies may by rule, regulation or written policy require that costs be paid before records are made available.
5. Any request for agency "records" includes the agency's relevant email records. A request for email records may not be overly broad. A request specifically for email records must identify the subject of the email, the date or approximate time period when the email was received or sent, and who received or sent the email. If the request does not contain this identifying information, the agency may ask the requestor to provide such identifying information. An example of an overly broad request would be a request for all email records of a state employee or department. Agencies are to evaluate whether email records are subject to disclosure under FOIA





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in the same manner as they evaluate whether paper documents are subject to disclosure under the statute. Accordingly, email records are subject to disclosure if they fall within the definition of "public record" under 29 *Del. C.* § 10002(g). Email records are not subject to disclosure if they fall outside the definition of "public record" and/or fall within one of the enumerated exceptions to "public record." See 29 *Del. C.* § 10002(g)(1)-(17). (e.g., "personnel," "medical," "investigatory files," "records involving labor negotiations or collective bargaining," "records pertaining to pending or potential litigation," etc.).

